

identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy

U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Office of Administrative Appeals MS 2090
Washington, DC 20529-2090



U.S. Citizenship
and Immigration
Services

PUBLIC COPY

H5

MAR 05 2010



FILE:

(CDJ 2004 826 630)

Office: CIUDAD JUAREZ, MEXICO

Date:

IN RE:



APPLICATION: Application for Waiver of Grounds of Inadmissibility under Section 212(i) of the Immigration and Nationality Act, 8 U.S.C. § 1182(i)

ON BEHALF OF APPLICANT:

SELF-REPRESENTED

INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. All documents have been returned to the office that originally decided your case. Any further inquiry must be made to that office.

If you believe the law was inappropriately applied or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen. Please refer to 8 C.F.R. § 103.5 for the specific requirements. All motions must be submitted to the office that originally decided your case by filing a Form I-290B, Notice of Appeal or Motion, with a fee of \$585. Any motion must be filed within 30 days of the decision that the motion seeks to reconsider or reopen, as required by 8 C.F.R. § 103.5(a)(1)(i).

Perry Rhew
Chief, Administrative Appeals Office

DISCUSSION: The waiver application was denied by the Officer in Charge, Ciudad Juarez, Mexico. The matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The applicant is a native and citizen of Mexico who was found to be inadmissible to the United States under section 212(a)(9)(B)(i)(II) of the Act, 8 U.S.C. § 1182(a)(9)(B)(i)(II), for having been unlawfully present in the United States for more than one year and seeking readmission within ten years of his last departure from the United States. The applicant is the father of a United States citizen. He seeks a waiver of inadmissibility in order to reside in the United States.

The applicant is a native and citizen of Mexico who was found to be inadmissible to the United States under section 212(a)(6)(C)(i) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1182(a)(6)(C)(i), for having attempted to procure admission into the United States by fraud or willful misrepresentation. The applicant states he is married to a lawful permanent resident and seeks a waiver of inadmissibility pursuant to section 212(i) of the Act, 8 U.S.C. § 1182(i), in order to reside in the United States with his spouse and child.

The Officer in Charge found that, based on the evidence in the record, the applicant had failed to establish extreme hardship to his qualifying relative. The application was denied accordingly. *Decision of the Officer in Charge*, dated March 13, 2007.

On appeal, the applicant's son notes that his father is suffering hardship and that his mother is very worried about him. *Form I-290B, Notice of Appeal to the Administrative Appeals Office and attached statement from the applicant's son*, dated March 17, 2007.

In support of these assertions, the record includes a statement from the applicant's son. The entire record was reviewed and considered in rendering a decision on the appeal. The AAO notes that the record includes a document in the Spanish language unaccompanied by a certified translation. As such, the AAO will not review this document. *See* 8 C.F.R. § 103.2(b)(3).

Section 212(a)(6)(C) of the Act provides, in pertinent part, that:

- (i) Any alien who, by fraud or willfully misrepresenting a material fact, seeks to procure (or has sought to procure or has procured) a visa, other documentation, or admission into the United States or other benefit provided under this Act is inadmissible.

Section 212(i) of the Act provides that:

- (1) The Attorney General [now the Secretary of Homeland Security (Secretary)] may, in the discretion of the Attorney General [Secretary], waive the application of clause (i) of subsection (a)(6)(C) in the case of an alien who is the spouse, son or daughter of a United States citizen or of an alien lawfully admitted for permanent residence, if it is established to the satisfaction of the

Attorney General [Secretary] that the refusal of admission to the United States of such immigrant alien would result in extreme hardship to the citizen or lawfully resident spouse or parent of such an alien.

In the present case, the record indicates that the applicant attempted to enter the United States by presenting a false border crossing card in February 1999. *Form I-213, Record of Deportable/Inadmissible Alien*, dated February 1, 1999. Immigration officials detained him at Calexico and he was expeditiously removed. *Id.* In that the applicant used a fraudulent document in an attempt to enter the United States, he is inadmissible under Section 212(a)(6)(C)(i) of the Immigration and Nationality Act.

A section 212(i) waiver of inadmissibility resulting from a violation of section 212(a)(9)(C)(i) of the Act is dependent first upon a showing that inadmissibility imposes extreme hardship to the citizen or lawfully resident spouse or parent of the applicant. Children are not qualifying relatives for the purposes of section 212(i) waiver proceedings. The record fails to establish that the applicant has a U.S. citizen or lawfully permanent resident spouse or parent. Although the Form I-601, Application for Waiver of Ground of Excludability, indicates that the applicant has a lawful permanent resident spouse, there is no proof of their marriage or of the spouse's lawful permanent residence included in the record. Going on record without supporting documentary evidence will not meet the burden of proof of this proceeding. *See Matter of Soffici*, 22 I&N Dec. 158, 165 (Comm. 1998)(citing *Matter of Treasure Craft of California*, 14 I&N Dec. 190 (Reg. Comm. 1972)). The AAO thus finds the applicant has no qualifying relative and is not eligible for a Form I-601 waiver.

Having found the applicant statutorily ineligible for relief, no purpose would be served in discussing whether he merits a waiver as a matter of discretion.

In proceedings for application for waiver of grounds of inadmissibility under section 212(a)(6)(C) of the Act, the burden of proving eligibility remains entirely with the applicant. *See* section 291 of the Act, 8 U.S.C. § 1361. Here, the applicant has not met that burden. Accordingly, the appeal will be dismissed.

ORDER: The appeal is dismissed.